



United States
Department of
Agriculture

Food and
Nutrition
Service

Mountain
Plains
Region

1244 Speer Boulevard
Denver, CO
80204-2581

JUL 23 2004

Reply to
Attn of:

SP-04-22
CACFP-735
SFSP-503

Subject:

Reaffirming FNS' Position on Rebates, Discounts, and Other Applicable Credits in Cost Reimbursable Contracts

To:

STATE AGENCY DIRECTORS - Colorado ED, Colorado DPHE, Iowa, Kansas,
(Special Nutrition Programs) Missouri ED, Missouri DH, Montana OPI,
Montana DPHHS, Nebraska, North Dakota,
South Dakota, Utah and Wyoming

Our Headquarters Office was contacted by a representative of a food service management company (FSMC) who expressed concern that some State Agencies (SAs) may not be aware of FNS' position on rebates, discounts, and other applicable credits in school food authority (SFA) – FSMC cost reimbursable contracts. Our position remains unchanged from the answer to Question 5 in our SP 03-17 memorandum, *Applicability of Federal Requirements to School Food Service Procurements*, dated May 28, 2003. Since this position applies to all cost reimbursable contracts – not just SFA-FSMC cost reimbursable contracts – we are issuing this memorandum to all SAs for all Child Nutrition Programs.

To reiterate, Question 5 asked "Does applying Parts 3016 and 3019 to SFA procurement change FNS' position on the crediting of discounts and rebates in cost reimbursable contracts?" The answer remains the same: "No. FNS' position on this subject remains unchanged. FNS strongly encourages, but does not require, that all cost reimbursable contracts include provisions to ensure SFAs are only charged net, allowable costs. The Office of Management and Budget and the Department's Office of the General Counsel have made clear that SAs and SFAs can impose compliance with net cost requirements through contractual terms."

If you have any questions regarding this, please contact our office at (303) 844-0354.

Darlene Sanchez

DARLENE SANCHEZ
Regional Director
Special Nutrition Programs